

LICENSEE

News & Updates from the Virginia Department of Alcoholic Beverage Control, Spring/Summer 2011, Issue 17.2

2011 General Assembly Summary

by Curtis Coleburn, Chief Operating Officer

From gourmet oyster houses to outdoor advertising, the 2011 session of the Virginia General Assembly adopted a number of measures of interest to ABC licensees.

Pro-rated Fees & Billboards

The most interesting legislative action took place in connection with Senate Bill 1457. This bill is the only one not effective July 1. It had an emergency clause attached which made it effective upon the Governor's signature. Its provisions are now law. The legislation started out as a bill to address a problem which arose when a restaurant burned down shortly after it had paid its license renewal. Although the licensee had paid for a full year, it would not be able to operate for most of the term. Unfortunately, the law did not allow ABC to refund or pro-rate the license fee in this circumstance. The bill was introduced to allow the Board to pro-rate and refund license fees in the case where the premises were destroyed by natural disaster. Those provisions were adopted, but the bill was also amended to add a number of unrelated provisions, dealing with outdoor alcoholic beverage advertising. See "Billboard Advertising Approved for Virginia" (pg. 8) for a discussion of this legislation, which for the first time in recent history allows alcoholic beverage advertising on billboards in Virginia.

Underage Providers

House Bill 1496 addresses the situation where someone of legal age provides alcohol to someone less than 21. Currently, the Commonwealth must prove that someone knew that the recipient was under 21 to obtain a conviction. The amendment adds the language "or having reason to know" to the statute, to enable the conviction of one who should have known the person he was giving alcohol was underage, without having to prove actual knowledge.

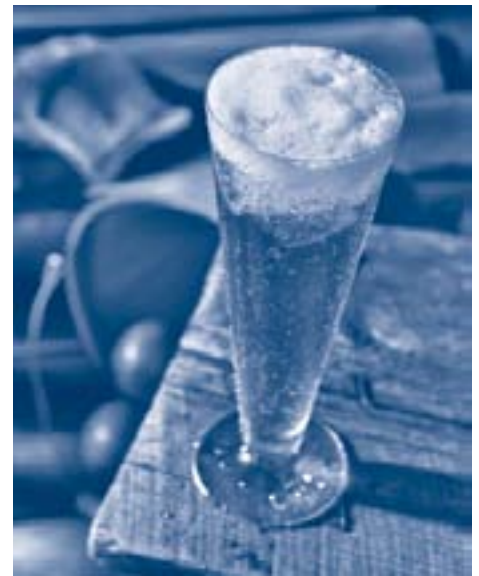
Alcohol Content of Cider

House Bill 2295 and Senate Bill 1000 were identical bills concerning the lawful alcohol content of cider products. Presently, a product called "cider" may only contain 7 percent alcohol or less. Some Virginia cider producers argued that the natural sweetness of Virginia apples produced a product with a higher alcohol content. The new law will allow cider produced without added sugar to be up to 10 percent alcohol. Products produced by chaptalization, that is adding sugar to increase alcohol content, will continue to be limited to the 7 percent limit.

Catoctin Creek Store

Senate Bill 1249 currently benefits only one known Virginia distillery, Catoctin Creek Distillery. This bill provides that ABC may establish a government store on the premises of a certified organic distillery, and appoint the distillery's personnel as agents to operate the store, selling products produced by the distillery. Catoctin Creek will be ABC's fifth distillery store.

(continued on page 5)



Two measures allow cider produced without added sugar to be up to 10 percent alcohol.



Catoctin Creek Distillery, the site of ABC's fifth distillery store. Photo courtesy of Catoctin Creek Distilling Company, LLC.

With one exception (Senate Bill 1457), all laws mentioned in this article become effective July 1, 2011. Also, see page 3 for information about a new law pertaining to synthetic marijuana.



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Virginia ABC is one of 14 state law enforcement agencies under the Office of Public Safety.



Governor Bob McDonnell



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LETTER FROM ENFORCEMENT



WE ARE AWARE that public safety is a 24-hour / 7 day-a-week / 365 day-a-year job. As we head into what is traditionally, in many areas of the Commonwealth, a hectic time of year, the Bureau of Law Enforcement is renewing its efforts to develop and provide tools for our licensees to be in compliance with the rules and regulations of the department.

In the near future, our agents will work with the Public Affairs Division on a "licensee communications audit." Here at ABC, we will examine the documents, correspondence and guidance we provide to licensees. Our goal is to identify, strengthen and establish consistent forms of communication as well as update the guidance materials that we offer. These include updating the Retail Licensee Guide, publishing the guide online, and initiating enhancements to the Licensee Resources pages on our website. We will also review ABC Bulletins and Circular Letters. (Be sure to review Circular Letter 1-11 on the facing page regarding synthetic marijuana.)

Enforcement is also focusing on direct agent-to-licensee service and communication. Internally, we are embarking on a strategic planning process that will in part focus on communications with our regulated communities. Additionally, we are doing everything we can to free up our field agents' time so they can focus on our public safety mission. Please remember, agents are available to you as a resource. If you've identified a problem or have an ABC-related challenge or question, contact your agent. In addition to their other duties, they are here to assist you because we all know that potential problems that are identified before they become full-blown problems are easier to address.

ABC special agents have a dramatically-varied range of responsibilities and activities (for a few examples, see the "Enforcement Briefs" on page 11). Similarly, we know you have a wide range of responsibilities and we appreciate that you face numerous challenges to operate a successful business in this difficult economic climate. We are committed to further strengthening our partnership to foster voluntary compliance. As you review your operations this summer and beyond, let us know if you identify ways that we may assist you. ♦

DON'T MISS IN THIS ISSUE! ...

WHAT WENT WRONG?—HAPPY HOUR, PAGE 7

Share this list of common problems / violations related to Happy Hour with your staff. Prevent similar problems at your establishment.

BILLBOARD ADVERTISING APPROVED FOR VIRGINIA, PAGE 8

For the first time in recent history, billboard advertising of alcoholic beverages is legal in Virginia. The new legislation is explained here.

FARM WINERIES & SELF-DISTRIBUTION, PAGE 11

Learn more about local wine distribution through the Virginia Winery Distribution Company (VWDC), newly created by the General Assembly.



New Synthetic Marijuana Law Now in Effect

COMMONWEALTH of VIRGINIA

Department of Alcoholic Beverage Control

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CIRCULAR LETTER 1-11

DATE: **May 12, 2011**

TO: **ALL RETAILERS OF ALCOHOLIC BEVERAGES**

SUBJECT: **SYNTHETIC MARIJUANA (also known as: Spice and K-2)**

On March 1, 2011, the Drug Enforcement Administration (DEA) issued an order placing five synthetic cannabinoids (synthetic marijuana) into the Controlled Substances Act. This action was based on a finding, by the Administrator of the DEA, that the placement of these synthetic cannabinoids into Schedule I of the Act is necessary to avoid an imminent hazard to public safety. It is now a violation of federal code to possess, give, sell, gift, or possess with the intent to sell, give, or distribute these substances.

The 2011 Virginia General Assembly passed legislation amending the Code of Virginia (COV), listing synthetic cannabinoids (synthetic marijuana) in Schedule I of the Controlled Substance Act. 18.2-248.1:1 COV makes the possession, sale, gift, or possession with the intent to sell, give, or distribute synthetic marijuana a criminal offense. The minimum punishment for a violation of this section is a Class 1 misdemeanor, carrying up to 1 year in jail and/or a \$2,500 fine. This new law became effective March 23, 2011 when the Governor signed the bill. **Failure to remove these items from your establishment, or selling them, will result in criminal charges and actions taken by this agency to suspend or revoke the establishment's ABC license.**

INQUIRIES: Any inquiries or concerns should be directed to your local Special Agent or Regional Office.

W. Curtis Coleburn, III
Chief Operating Officer/Secretary To The Board

ABC WANTS TO SOCIALIZE WITH YOU



In previous issues of the *Licensee*, we invited licensees to join ABC's growing social media presence.

- Facebook: "Virginia Department of Alcoholic Beverage Control"
- YouTube: www.youtube.com/vaabc
- Twitter: @Virginia ABC

Please check out what's available and join us in the social media realm.

SUGGESTIONS & IDEAS

If you have an issue or question you'd like addressed in this newsletter, please send an e-mail to pubrel@abc.virginia.gov or call (804) 213-4413. We're eager to receive your ideas and comments.

—The *Licensee* Newsletter Editorial Board

ABC ENFORCEMENT CRIMELINE

To report a crime relating to any ABC laws, please call ABC's Enforcement CRIMELINE: (804) 437-3155. Or use the "Violation Complaint Form," available online at www.abc.virginia.gov.

(866) 437-3155

QUICK REMINDER

Licensees have a responsibility to comply with local health and safety codes (fire codes/overcrowding). Failure to comply can result in ABC violations.

ABC and Flying Squirrels Honor Middle School Poster Contest Participants

ON April 28, 2011, ABC honored 31 students who participated in the Alcohol Has No Place Middle School Poster Contest. During the Flying Squirrels' pre-game festivities at The Diamond in Richmond, ABC Chairman Neal Insley, Commissioner Sandy Canada and Education Coordinator Marisa Harris (pictured here, from left, with mascots Nutzy and Zinger) acknowledged the students' excellent work and encouraged them to continue to make smart and healthy choices.

Students from Chesapeake and Glade Hill each got to throw out a first ball and all of the kids were acknowledged on the field and saw their posters broadcast on the scoreboard!

Check out the middle schoolers' amazing posters designed to discourage underage drinking; the winners and honorable mentions are on ABC's website under the Education tab, "Youth and Colleges" link, along with a *Parent Guide to Preventing Underage Drinking*. ♦



ABC's Insley, Canada and Harris with mascots Nutzy and Zinger.



The winning poster designed by Falyynn of Big Rock, Virginia.

NEW ABC STORE PRODUCT LISTINGS

Name	Category	Product	Size
Bulleit Rye	Bourbon	27028	750 ml
Catoctin Creek Mosby Spirits	Bourbon	27488	750 ml
Early Times Bourbon 354	Bourbon	17836	750 ml
Jack Daniels Tennessee Honey Liqueur	Bourbon	86670	750 ml
Jim Beam Devil's Cut	Bourbon	19112	750 ml
Junior Johnson Midnight Apple Pie	Bourbon	76036	750 ml
Carriage House Apple Brandy	Brandy	53634	750 ml
Courvoisier Rose	Brandy	47798	750 ml
Revel Stoke Spiced Whiskey	Canadians	77256	750 ml
Rich & Rare Reserve Canadian	Canadians	12858	1.75 L
Bacardi Classic Cocktail Hand Shaken Daiquiri	Cocktails	57031	1.75 L
Bailey's Mudslide	Cocktails	56865	1.75 L
Chi Chi's Long Island Iced Tea	Cocktails	57170	800 ml
Chi Chi's Skinny Margarita	Cocktails	57174	1.75 L
Chi Chi's Skinny Margarita (4 pack)	Cocktails	57173	800 ml
Firefly Pink Lemonade	Cocktails	59522	1.75 L
Firefly Pink Lemonade (4 pack)	Cocktails	59520	800 ml
Gosling's Rum Swizzle, RTD	Cocktails	59620	1.75 L
Jose Cuervo Auth. Light Margarita	Cocktails	58872	1.75 L
Jose Cuervo Auth. Watermelon Margarita	Cocktails	58873	1.75 L
Southern Comfort Lemonade, RTP	Cocktails	77078	1.75 L
Agavero Orange	Cordials	64098	750 ml
Coole Swan	Cordials	TBD	750 ml
Galliano Ristretto Liqueur	Cordials	67482	375 ml
Hpnotiq Harmonie	Cordials	65229	750 ml
Molly's Irish Cream	Cordials	TBD	750 ml
Qream Strawberry Cream Liqueur	Cordials	80436	750 ml
Seagram's 7 Crown Stone Cherry	Cordials	27562	750 ml
Tooters Alabama Slama Liqueur	Miniatures	77544	50 ml
Jose Cuervo Light Margarita Mix	Mixers	997321	1.75 L
Sassy Mary Bloody Mary Mix	Mixers	997323	750 ml
Tres Agaves Agave Nectar	Mixers	997318	750 ml
Tropical Shotz Margarita Gelatin Cocktail Kit	Mixers	997319	6.8 oz.
Tropical Shotz Sex on the Beach Gelatin Cocktail Kit	Mixers	997320	6.7 oz.
Admiral Nelson Spiced Cherry Rum	Rum	43986	1.75 L
Bacardi Arctic Grape	Rum	43163	750 ml
Castillo Fusion Rum	Rum	43404	1 L
Chick's Beach Rum	Rum	46114	750 ml
Coruba Coconut Jamaican Rum	Rum	42071	750 ml
Cruzan Strawberry	Rum	44557	750 ml
Malibu Black	Rum	42689	750 ml
Malibu Cranberry Cherry	Rum	42485	750 ml
Buchanan's Special Reserve 18 yr Scotch Whiskey	Scotch	4616	750 ml
Connemara Peated Single Malt Irish Whiskey	Scotch	15576	750 ml
Irish Manor Whiskey	Scotch	15613	1 L
Tyrconnel Single Malt Irish Whisky	Scotch	15930	750 ml
Avion Tequila Reposado	Tequila	89030	750 ml
Avion Tequila Silver	Tequila	87150	750 ml
Camarena Reposado Tequila	Tequila	89428	750 ml
Camarena Silver Tequila	Tequila	87643	750 ml
Espolon Reposado Tequila	Tequila	89286	750 ml
Lunazul Anejo	Tequila	89475	750 ml
Milagro Select Barrel Reserve Reposado	Tequila	89590	750 ml
Sauza Blue Tequila	Tequila	88536	750 ml
Zarco Gold Tequila	Tequila	89428	750 ml
Philip Carter Governor Fauquier Vidal Blanc	Va. Wine	917203	750 ml
Phillip Carter Cabernet Franc	Va. Wine	917204	750 ml
Phillip Carter Chardonnay White	Va. Wine	917202	750 ml
Rapidan Blackberry Wine	Va. Wine	917199	750 ml
Rapidan Peach Wine	Va. Wine	917200	750 ml
Rapidan Raspberry Wine	Va. Wine	917198	750 ml
Tomahawk Country Blush Wine	Va. Wine	917201	750 ml
Williamsburg Birdies for the Brave Merlot	Va. Wine	917195	750 ml
Absolut Orient Apple	Vodka	33966	750 ml
Absolut Wild Tea	Vodka	33987	750 ml
Belvedere Bloody Mary	Vodka	33999	750 ml

(continued on page 6)

"2011 General Assembly" (continued from page 1)

Oyster House License

One bill that has been signed into law creates a new license. House Bill 2501 creates a new gourmet oyster house license for a facility located on the premises of a commercial marina and permitted by the Department of Health to serve oysters and other fresh seafood. This license will allow the business to give samples or serve wine and beer for on-premises consumption and sell wine and beer for off-premises consumption. The Board will set minimum seafood sales requirements.

Common Interest Communities

Another bill creates a situation where a license is no longer needed. House Bill 1975 provides that a banquet license is no longer necessary for private events limited in attendance to members of a common interest community (as defined in Section 54.1-2345 of the Code of Virginia), and their guests. Such functions must be conducted on the common area set aside for this purpose in the community.

Out-of-State Shipments

Virginia's farm wineries were successful in obtaining the passage of House Bill 1979 and Senate Bill 1083, identical bills that deal with tax exemptions for shipments of wine and beer to consumers in other states. The present law provides that Virginia excise tax is not collected on shipments from Virginia licensees to businesses in other states for resale, but shipments directly to consumers are not exempt. The new amendment will make shipments to out-of-state consumers also exempt from Virginia wine and beer taxes.

30-Day Objection Period

House Bill 2226 was a piece of ABC-sponsored legislation, limiting the time for making objections to license applications. Currently, localities have 30 days to object to the issuance of a license, but there is no time limit on other objections. To streamline the application process, the amendment provides that objections from the public to ABC license applications must be made within 30 days of the first publication of the notice each applicant is required to run.

(continued on page 6)

Assaults on ABC Special Agents

For many years, it has been a Class 6 felony to commit assault and battery upon a law enforcement officer. Prosecutors and courts have usually assumed this applied to assaults against ABC Special Agents. A 2009 opinion of the Virginia Court of Appeals ruled that since ABC agents were not among the specific officers listed in the statute, they were not covered. House Bill 1516 corrected this situation, making the assault and battery upon an ABC Special Agent a felony carrying a minimum six-month mandatory term of confinement.

Changes to "Zero Tolerance"

House Bill 1407 and Senate Bill 770 were identical measures amending the "zero tolerance" statute for underage drinking and driving. Under current law, persons under the legal drinking age found driving with a blood alcohol level of .02 percent by volume or more lose their driver's license for six months and are subject to a fine of up to \$500. The new law will make a violation of this statute a Class 1 misdemeanor, with at least a one-year license forfeiture, and a minimum of either a \$500 fine or 50 hours of community service. ♦



Governor McDonnell (seated) signs HB 1516, with Secretary of Public Safety Marla Decker (far left), ABC SA Lisa Wright and bill sponsor Delegate Robert Orrick (far right) in attendance.

Walker Is Director of Field Operations for Bureau of Law Enforcement

ON December 1, 2010, the Board designated Shawn Walker as director of field operations for ABC's Bureau of Law Enforcement. Walker is responsible for field investigations, industry compliance, training and education.

Walker has been with ABC for 17 years and served in many facets of the Bureau of Law Enforcement. He is committed to ABC's public safety mission and is a strong advocate of the role of the agency within the law enforcement community. He believes to be effective with the regulated community of licensees, there needs to be a method to encourage voluntary compliance with the laws and regulations. "It is difficult to hold businesses accountable if we do not first attempt to provide licensees with the tools to be successful," Walker said.

However, in instances where violations by licensees occur, "there should be swift, fair and consistent action by our agents to bring the violation before the department for consideration," he said. By addressing violations in this manner, Walker believes that the playing field for compliant businesses will be much more level.

"We will be revising and renewing our efforts for outreach to the ABC licensee community. Additionally, we will be con-

(continued on page 8)



Shawn Walker

NEW ABC STORE PRODUCT LISTINGS (continued)

Name	Category	Product	Size
Belvedere Intense Unfiltered Vodka	Vodka	33971	750 ml
Burnett's Limeade Flavored Vodka	Vodka	41842	1.75 L
Burnett's Orange Cream Flavored Vodka	Vodka	41852	1.75 L
Chopin Rye Vodka	Vodka	35759	750 ml
Ciroc Peach	Vodka	64712	750 ml
Dirty Karma Sol	Vodka	40882	750 ml
Dirty Karma Vodka	Vodka	35800	750 ml
Godiva Chocolate Raspberry Vodka	Vodka	41951	750 ml
Kru 82	Vodka	34496	750 ml
Moon Mountain Vodka	Vodka	36951	750 ml
Naked Jay Big Dill Pickle Vodka	Vodka	TBD	750 ml
Naked Jay Vodka	Vodka	TBD	750 ml
Naked Jay Whipped Cream Vodka	Vodka	TBD	750 ml
Pinnacle Chocolate Whipped Vodka	Vodka	35743	750 ml
Pinnacle Orange Whipped Vodka	Vodka	35773	750 ml
Pucker Cherry Tease Vodka	Vodka	40841	750 ml
Pucker Citrus Squeeze Vodka	Vodka	40845	750 ml
Pucker Grape Gone Wild Vodka	Vodka	40849	750 ml
Pucker Sour Apple Sass Vodka	Vodka	40853	750 ml
Skyy Infusions Blood Orange Vodka	Vodka	40829	750 ml
Skyy Infusions Dragon Fruit Vodka	Vodka	40835	750 ml
Smirnoff Peach Vodka	Vodka	41922	750 ml
Sobieski Karamel Vodka	Vodka	35680	750 ml
Sobieski Orange Vodka	Vodka	35631	750 ml
Three Olives Dude	Vodka	35766	750 ml
Woodford Rsrv. Mstrs. Coll. Maple Wood Finish	Bourbon	022226	750 ml

ABC, Military and Licensees Continue Partnership

ABC joined forces with the U.S. Army and Navy beginning in 2008 to communicate an important message to soldiers on Virginia bases: “Don’t let alcohol stand in the way of your future.” Concurrent with this education campaign, Diageo and Southern Wine & Spirits initiated the Military Safe Rides Home Program.

The Military Safe Rides designated-driver program allows military men and women who are at least 21 years old to receive a free ride to their residence or base from six participating establishments: Baxter's Sports-Lounge, Greenies Restaurant, and Time Lounge in Norfolk; and Hot Tuna Grill, Peabody's and Shorebreak in Virginia Beach. Managers at these establishments work with two cab companies to transport soldiers and sailors home safely.

The Military Safe Rides Home Program is part of a broader nationwide designated-driver program sponsored by Diageo. The program is also part of ABC's Military Outreach Initiative designed to educate military men and women stationed in Virginia about the commonwealth's alcohol laws and the importance of responsible consumption. ♦

Managers at these establishments work with two cab companies to transport soldiers and sailors home safely.



Posters produced through Virginia ABC's military initiative.

WHAT WENT WRONG?

Happy Hour

“Happy Hour” is defined as a specified period of time during which alcoholic beverages are sold at prices reduced from the customary price established by a retail licensee. Happy Hour may not be conducted between 9 p.m. of each day and 2 a.m. of the following day. Following are examples of the most common violations related to Happy Hour and how to prevent similar problems from occurring.

Scenario	Solution
1. A restaurant employee sold a drink for a Happy Hour price after 9 p.m.	Be certain employees know the rules regarding Happy Hour and adhere to the 9 p.m. deadline for selling drinks at a reduced price. A server may intend to let a customer “slide in a little late,” but this is not an excuse for violating ABC law.
2. A restaurant advertises Happy Hour on its webpage or social media (Facebook, Twitter, etc.) sites.	This scenario requires a two-prong solution. First: Licensees need to know the rules about Happy Hour and advertising. In brief, social media is treated like other media (newspapers, radio, etc.) as far as what restaurants can advertise. Licensees may advertise products they carry, regular prices of drinks, food prices/specials, descriptions of signature cocktails, etc. but may NOT advertise Happy Hour in the media. Second: if you hire a designer/administrator for your web and/or social media, communicate the rules to them AND monitor the sites. Ultimately, the licensee is responsible for the content even if he/she didn't write and/or design the content. (This also relates to a third-party hired to develop a newspaper ad. It is incumbent upon the licensee to review any and all ads.)
3. A restaurant advertises “Drink Specials” or “Happy Hour” on a sandwich board or marquee outdoor sign separate from the building.	Retail licensees are not allowed to advertise Happy Hour (or Drink Specials, etc.) anywhere except inside the business and, as of March 2010, on one two-dimensional sign not exceeding 17" x 22", attached to the exterior of the licensed premises, which advertises “Happy Hour” or “Drink Specials” and the time period during which alcoholic beverages are being sold at reduced prices.

sidering establishing regional advisory groups, comprised of members of our licensed community, to help provide direct feedback about issues that are of concern. This type of information and interaction only serves to make us better," Walker said.

Prior to his current position, Walker served as ABC's deputy director of field operations from 2004–2010, and before that was ABC's special agent in charge of education, training and industry matters. He first served with ABC as a special agent in the department's Chesapeake Regional Office. Walker began his law enforcement career as a patrol officer with the Old Dominion University Police Department in Norfolk. He earned a bachelor's degree in Criminal Justice from Old Dominion University, and an MBA from Averett University in Danville. He is a graduate of: the 224th session of the FBI National Academy, the Police Executive Leadership School at the University of Richmond, and the Commonwealth Management Institute at Virginia Commonwealth University.

"It is our goal to serve the citizens and the businesses of the Commonwealth with pride and integrity."

—Shawn Walker

"I am excited and very proud to embark on the next phase of my career working alongside the exceptional group of professional colleagues we have here in the Bureau. It is our goal to serve the citizens and the businesses of the Commonwealth with pride and integrity," Walker stated.

Walker co-leads Enforcement with Director of Administration Frank Monahan who is responsible for bureau policy, budget, professional standards and internal investigations, security, and license records management.

See the Law Enforcement tab on ABC's website for more information about the Bureau of Law Enforcement. ♦

www.abc.virginia.gov

BILLBOARD ADVERTISING APPROVED FOR VIRGINIA

by Curtis Coleburn, Chief Operating Officer

FOR the first time in recent history, billboard advertising of alcoholic beverages is now legal in Virginia. On March 26, 2011, Governor McDonnell signed Senate Bill 1457, a bill initially only dealing with the pro-ration of license taxes in case a licensed establishment was destroyed by natural disaster. In the late days of the General Assembly the bill was drastically amended to regulate outdoor alcoholic beverage advertising. One of the amendments tacked onto the bill was an emergency clause, making the new provisions effective immediately upon the bill's signing.

The new law provides that manufacturers, wholesalers, and retailers may advertise alcoholic beverages on lawfully erected billboard signs. Such signs may not depict persons consuming alcoholic beverages, may not use cartoon characters, nor use persons who have not attained the legal drinking age as models or actors. Billboards with alcoholic beverage advertising may not be placed within 500 feet of a church or synagogue; a public, private, or parochial school, college, or university; a public or private playground or similar recreational facility; or residentially zoned property. "Residentially zoned property" is not defined in the statute. The Department of Alcoholic Beverage Control is interpreting the phrase to mean property that is restricted exclusively to residential use by a zoning ordinance.

Another portion of the legislation codifies the current provisions of 3 VAC 5-20-30, which specify the number and types of alcoholic beverage advertising signs other than billboards allowed to be used by licensees. Manufacturers and wholesalers may have no more than one sign upon the licensed premises, and up to two more directional signs within one-half mile of the premises. Wineries are allowed additional directional signs. There are also provisions governing advertising on vehicles and uniforms.

The legislation also codifies the alcoholic beverage advertising signs allowed other than billboards.

Retailers are limited to no more than two signs at the establishment, or three if the establishment is at an intersection. Signs may not include references to happy hour promotions, except a single two-dimensional sign no larger than 17 inches by 22 inches on the exterior of the licensed premises, limited in content to the terms "Happy Hour" or "Drink Specials" and the time period during which alcoholic beverages are being sold at reduced prices.

These new statutory provisions have a "sunset" clause, which makes them expire on January 1, 2013. In the meantime, other provisions of the legislation require that ABC promulgate new rules for outdoor alcoholic beverage advertising. This process is expected to begin in late spring or early summer. ♦

Alcoholic Energy Drink Update

WHILE the details may be somewhat confusing and acronym-laden (with references to “adulterated food products,” the Alcohol and Tobacco Tax and Trade Bureau—TTB, Certificate of Label Approval—COLA, etc.), the news on “alcoholic energy drinks” is straightforward:

1. In December 2010, the U.S. Food and Drug Administration banned alcoholic energy drinks containing caffeine.
2. Many wholesalers bought back these products; however, it is the retailers’ responsibility to remove these drinks from their sales inventory and dispose of them.
3. Many of these products have been reformulated, *without the caffeine*, and are back in stores.
4. These drinks remain popular with young people; licensees must use extreme caution to avoid underage sales. (Of course, ABC expects licensees to be extremely cautious to avoid ALL underage sales.)
5. All employees who work the cash register should be trained to recognize all products that contain alcohol and avoid underage sales.

“Alcoholic energy drinks” include (but may not be limited to):

- New Century Brewing LLC, manufacturer of Moonshot
- United Brands Company, Inc., manufacturer of Joose and Max
- Charge Beverage Corporation, manufacturer of Core High Gravity HG—Green, Core High Gravity HG—Orange and Lemon-Lime Core Spiked
- Phusion Projects Inc., manufacturer of Four Loko

Finally, please note ABC actively investigates the sale of alcoholic energy drinks (and all other types of alcoholic beverages) through the Underage Buyer (UAB) Program. Failures of random UAB compliance checks, and UAB checks initiated by complaints, will result in administrative and/or criminal charges. For more information about the UAB and/or compliance check results, see the “Underage Buyer Program” link under Quick Links on the ABC website home page. ♦

2011 MART & RSVP SPRING/SUMMER SCHEDULE

May (RSVP)

- 5/18, Chesapeake**
Chesapeake Regional ABC Office, 1103 South Military Hwy., (two sessions)
9 a.m.–12 p.m. & 1–4 p.m.
- 5/18, Danville**
Danville Community College, Oliver Hall Auditorium,
10 a.m.–1 p.m.
- 5/18, Farmville**
South Street Conference Bldg., 124 South St., 1–4 p.m.
- 5/18, Richmond**
Brown Distributing, 7986 Villa Park Dr., (two sessions)
9 a.m.–12 p.m. & 1–4 p.m.
- 5/19, Winchester**
Winchester Moose Lodge, 215 East Cork Street,
9 a.m.–12 p.m.
- 5/24, Abingdon**
Southwest Virginia Higher Education Center,
One Partnership Circle,
9 a.m.–1 p.m.
- 5/25, Alexandria**
Alexandria Regional ABC Office (Fairfax County), 6308 Grovedale Dr., (two sessions)
9 a.m.–12 p.m. & 1–4 p.m.
- 5/25, Hampton**
Old Dominion University / Peninsula Higher Education Center, 600 Butler Farm Rd.,
9 a.m.–12 p.m.

June (MART)

- 6/1, Fredericksburg**
Fredericksburg Regional ABC Office, Lee Hill Building II—Ste. 101, 10304 Spotsylvania Ave., 10 a.m.–4 p.m.
- 6/1, Lynchburg**
Lynchburg Regional ABC Office, 20353-A Timberlake Rd., 10 a.m.–4 p.m.
- 6/9, Roanoke**
Roanoke Regional ABC Office, 2943-D Peters Creek Rd., 8:30 a.m.–1:30 p.m.
- 6/15, Chesapeake**
Chesapeake Regional ABC Office, 1103 South Military Hwy., 9 a.m.–3 p.m.
- 6/23, Abingdon**
Southwest Virginia Higher Education Center, One Partnership Circle,
9 a.m.–3 p.m.
- 6/29, Alexandria**
Alexandria Regional ABC Office (Fairfax County), 6308 Grovedale Dr.,
10 a.m.–4 p.m.
- 6/29, Hampton**
Old Dominion University / Peninsula Higher Education Center, 600 Butler Farm Rd.,
9 a.m.–3 p.m.
- 6/30, Winchester**
Winchester Moose Lodge, 215 East Cork Street,
10 a.m.–4 p.m.

July (RSVP)

- 7/6, Lynchburg**
Lynchburg Regional ABC Office, 20353-A Timberlake Rd., 10 a.m.–1 p.m.
- 7/12, Verona**
Augusta County Government Center, Smith West Board Room, 1–4 p.m.
- 7/14, Abingdon**
Southwest Virginia Higher Education Center, One Partnership Circle,
9 a.m.–1 p.m.
- 7/19, Roanoke**
Roanoke Regional ABC Office, 2943-D Peters Creek Rd., 8:30 a.m.–12 p.m.
- 7/20, Chesapeake**
Chesapeake Regional ABC Office, 1103 South Military Hwy., (two sessions)
9 a.m.–12 p.m. & 1–4 p.m.
- 7/20, Richmond**
Brown Distributing, 7986 Villa Park Dr., (two sessions)
9 a.m.–12 p.m. & 1–4 p.m.
- 7/27, Alexandria**
Alexandria Regional ABC Office (Fairfax County), 6308 Grovedale Dr., (two sessions)
9 a.m.–12 p.m. & 1–4 p.m.
- 7/27, Hampton**
Old Dominion University / Peninsula Higher Education Center, 600 Butler Farm Rd.,
9 a.m.–12 p.m.



REGISTER TODAY!

Register online via ABC's Web site (www.abc.virginia.gov) and receive automatic e-mail confirmation, directions to the training site and parking instructions. For more information, contact Virginia ABC Education. Follow us on Twitter for the latest training news!

Virginia ABC Education: (phone) (804) 213-4688 / (E-mail) education@abc.virginia.gov

Wholesaler Audits—One Year Later

by Charlie Lintecum, Tax Audit Supervisor

IN THE Spring/Summer 2010 edition of the *Licensee* newsletter, I wrote about the beginnings of the restructured Wholesaler Audit Program. Since that time, the Tax Audit team has conducted a total of 58 on-site audits of various wine (31) and/or beer (27) wholesalers.

The team has identified a variety of issues along the way, some of which were easily correctable, some which required an expanded audit and others of which resulted in violation reports submitted by the senior special agents of the Compliance Unit. Additionally, anytime the team identifies areas for improvement outside of normal regulations, those issues are communicated to licensees as recommendations for improvement, but are not required. I want to communicate some of the more common issues to everyone, in an effort to increase compliance and understanding.

“Come to Rest”

- Sections 4.1-207 (2) for wine and 4.1-208 (3) for beer authorize the wholesale licensee to “...acquire and receive deliveries and shipments of beer/wine and to sell and deliver or ship the beer/wine from one or more premises identified in the license...”
- This means that all products a wholesaler purchases must first come to rest (physically be received) at the location identified in the license before being sold and/or delivered. It is a violation of these code sections to pick up product from anyone, (winery, brewery, other wholesaler etc.) and directly deliver it to a customer.

“Separate and Secure”

- To obtain and maintain a valid ABC wholesale license, the licensee must hold and maintain a valid Basic Permit from the Department of the Treasury—Alcohol and Tobacco Tax and Trade Bureau (TTB). One of the requirements of this permit is for the space designated as wholesale, to remain separate and secure from other spaces on the premises.
- This means for small businesses that are designating part of an area as their wholesale space, it must remain separate and secure from the other parts of the area. This includes home-based operations as well. Personal items not related to the wholesaler business or items related to a completely separate business should not be stored in the wholesale space.

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Properly Recording Samples

- When pulling items from inventory to use as samples, the items must be properly invoiced and recorded and the taxes must be paid. These records must be maintained in the same manner as normal invoices.
- Questions regarding proper recording of samples should be directed to the Tax Management section at (804) 219-2034.

Inventory

- The team has run across a varying number of ways to keep and record inventory. They range from the very automated and accurate to the very un-automated and only sometimes accurate. While maintaining a true perpetual inventory is not a requirement of Virginia Code or ABC regulations, reporting a monthly ending inventory is a requirement of ABC tax reporting. Additionally, 3 VAC 5-70-90 (A) states, “All licensees shall keep complete, accurate and separate records at the licensee's place of business for a period of two years.” This includes inventory records.
- This means that recording and submitting inaccurate inventory figures is not only improper tax reporting, but also can be construed as a violation of ABC regulations.
- The Tax Audit team recommends that all licensees develop a perpetual inventory process where purchases are added and sales are decremented. This can be easily handled through Microsoft Excel. Additionally, the team recommends mid-cycle test counts and reconciliation to ensure the integrity of the perpetual number. Maintaining a proper inventory number will also aide in the efficiency of ABC audits.

This column will become a regular feature in the ABC *Licensee* newsletter addressing industry issues. I encourage everyone to communicate with my team and me anytime you have questions. The easiest way to reach us is through our Tax.Audit@abc.virginia.gov email address. I also would like to thank those wholesalers who have worked with us to make their audits as smooth as possible. ♦



TASTING EVENTS

ABC is proud to present tasting events at ABC store locations across the state, allowing customers to sample select products before making a purchase. Since July 1, 2010, more than 1,650 tasting events have been held. For a schedule, visit www.abc.virginia.gov.

QUICK REMINDER

Licensees are required to report to ABC any changes in officers, directors, shareholders, partners or members within 30 days of any such change. Failure to comply can result in ABC violations.



Farm Wineries & Self-Distribution

by Joseph Cannon, Special Agent in Charge,
Education, Training and Compliance

AS WE CONTINUE to move forward in Virginia and promote our farm winery businesses, we all need to make sure that we are continuing to operate in accordance with the laws of the Commonwealth. As a reminder, Farm Winery licensees are not allowed to self-distribute their wine to retail licensees, pursuant to the U.S. Court of Appeals 4th Circuit Court decision to uphold an earlier ruling in *Bolick v. Roberts*, that the practice is unconstitutional.

In an effort to assist the farm winery community, the General Assembly created the Virginia Winery Distribution Company (VWDC) through the Department of Agriculture. It is a non-profit, non-stock corporation authorized to provide wholesale wine services to wineries and farm wineries that will produce not more than 3,000 cases of wine yearly. The written terms within the agreement must comply with all the requirements outlined in Virginia Codes §3.2-102, §4.1-207 and §4.1-207.1.

It should be noted that if any winery or farm winery enters into the above mentioned agreement, they must adequately separate their businesses and document all transactions, including the employee activities while working within each entity.

Please refer to www.VWDC.org for more information. ♦

ENFORCEMENT BRIEFS

Penhook Man Faces Charges

Special agents from the Roanoke Regional Office arrested a Penhook man in March on charges related to illegal possession of stills and weapons, including a charge of possession of a firearm by a convicted felon. Agents seized 16 firearms, including one automatic weapon, a substance believed to be marijuana and two stills.

Special Agents Use eBay in Still Bust

Special agents from the Roanoke Regional Office arrested a Collinsville man after an undercover controlled buy of a still on eBay in March. Once the still was purchased, agents were given consent to search the suspect's residence where two additional stills were found.

Alleghany Drug Task Force Bust

In February, ABC agents conducted a joint investigation with the Alleghany Drug Task Force pursuant to complaints at a licensed establishment. As a result of the operation four suspects were arrested for 12 offenses. Seven grams of crack cocaine, \$1,000 cash and a vehicle were seized. Several administrative violations were noted.

Craigslist Lands Brothers in Jail in Northern Virginia

Craigslist led special agents to a moonshine bust in February. Two Woodbridge brothers were arrested when agents seized moonshine, distilling equipment, marijuana and a handgun during an undercover investigation in Stafford and Woodbridge.

Special Agents Team Up With Chesapeake Police

In partnership with the Chesapeake Police Department, ABC agents executed a warrant and arrests were made for sale of alcoholic beverages without a license, maintaining a common nuisance, possession of marijuana with intent to distribute and possession of fraudulent U.S. documents.

Tri Rivers Joint Operation

Five people were charged with seven misdemeanors and one felony in February. In a joint operation with the Tri Rivers Task Force, ABC agents seized liquor, beer, 89 grams of marijuana, three grams of crack cocaine, digital gambling devices, a digital scale and \$1,205 in cash.

New Satellite Office in Fredericksburg

Virginia ABC opened a satellite regional office in Fredericksburg on March 1. The new office is a satellite of the Richmond Regional Office and serves the City of Fredericksburg, as well as Spotsylvania, Stafford and Caroline counties.

Pizza Robbery Foiled

In Lynchburg, a robbery in progress at a pizza establishment was foiled when ABC special agents responded and apprehended one suspect fleeing from the scene. The suspect identified was found still possessing the money from the robbery and was charged with robbery and resisting arrest.

Intoxicated Patron Refused Sale, Arrested for DUI

While conducting an observation at an ABC Store in Amherst County, an ABC SAC noticed two individuals attempting to drive away after store associates refused sale because they were intoxicated. The SAC notified town police and the driver was arrested for DUI and driving with a suspended license. One of the two passengers was arrested for drunk in public.

ARE YOU PROMOTING PUBLIC SAFETY?

Does your business participate in a local program designed to promote public safety? If so, please email us information at pubrel@abc.virginia.gov. The Licensee Editorial Board would like to share more stories in the newsletter about initiatives launched to foster responsible consumption, voluntary compliance and public safety.



**VIRGINIA DEPARTMENT OF
ALCOHOLIC BEVERAGE CONTROL**

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Online Ordering Enters Testing Phase

TO LAUNCH the testing phase for online ordering by licensees, a small group of ABC store managers recently visited ABC's Central Office in Richmond for a demonstration and feedback session. This was a follow up to the initial session held with a small group of Virginia restaurant managers involved in defining the requirements. Online licensee ordering is now in Quality Assurance testing with representatives of ABC's Information Technology Services and Wholesale/Retail Operations Divisions working to identify and solve problems before rolling out the service to licensees. The Web portal is the first of several projects planned to enhance ABC's e-commerce offerings. More information will be forthcoming as this project progresses. ♦

www.abc.virginia.gov

RSVP & MART TRAINING REGISTER TODAY!

The Spring/Summer 2011 schedule for RSVP and MART training is featured on page 9 of this issue of the *Licensee*. Register online at www.abc.virginia.gov!

"What Is RSVP and MART?"

VIRGINIA ABC offers two unique training programs for sellers and servers and managers and owners of Virginia's ABC licensed establishments. Special agents from the agency's Bureau of Law Enforcement conduct these training programs to help establishments better understand ABC laws, rules and regulations.

Responsible Sellers and Servers: Virginia's Program (RSVP) is a three-hour class designed specifically for Virginia's on- and off-premise licensees. Whether the establishment is a grocery store, convenience store, specialty store, restaurant or hotel, employees play a vital role in promoting responsible sales and consumption of alcoholic beverages. RSVP teaches

employees how to prevent sales to minors and intoxicated customers, how to spot fake identifications, how to document alcohol-related incidents and much more.

Managers' Alcohol Responsibility Training (MART), is a six-hour class developed for managers of Virginia's on- and off-premise establishments. ABC offers this training program to help managers enhance compliance and better understand Virginia laws and regulations. MART participants will learn about employing minors, using advertising properly, requirements for operating an on- or off-premise licensed business, checking identification and other management-related issues. ♦